



***Aboriginal news from across Turtle Island and beyond
February 4-8, 2013***

Ottawa to appeal court ruling that Metis, other natives are 'Indian'

[The Canadian Press](#)

Feb. 6, 2013 4:00PM EST



Calvin Pompana, a veteran from Sioux Valley Dakota Nation near Brandon, Man., pauses during a moment of silence during a National Aboriginal Veterans Day ceremony at the Victory Square Cenotaph in Vancouver, B.C., on Thursday, Nov. 8, 2012. (Darryl Dyck / THE CANADIAN PRESS)

OTTAWA - The federal government will appeal a landmark Federal Court ruling which vastly expanded the ranks of people considered Indians under the Constitution.

The Daniels decision said Metis and non-status Indians do fall under the constitutional heading of "Indian" and are therefore under federal jurisdiction.

Aboriginal Affairs Minister John Duncan says it's a complex case and it's prudent for the government to appeal to a higher court.

Among other things, he says, services for Aboriginal Peoples have to be financially sustainable.

The case dragged on for years before the ruling last month.

The Congress of Aboriginal Peoples and several Metis and non-status Indians took the federal government to court in 1999, alleging discrimination because they were not considered "Indians" under a section of the Constitution Act.

Senator Brazeau arrested after report of domestic violence, kicked out of Conservative caucus

[Ottawa Citizen](#)

February 7, 2013

Gary Dimmock and Jordan Press



Sen. Patrick Brazeau. Photograph by: Jean Levac, Canwest News Service, Postmedia News

OTTAWA — Sen. Patrick Brazeau was thrown out of the Conservative caucus Thursday after being arrested following a report of domestic violence.

Brazeau, 38, was arrested at 9:10 a.m. in Gatineau and is in custody at the Gatineau police station. As of 2 p.m. he had not been charged with any crime.

A statement from Gatineau police confirmed the arrest of a man Thursday morning in a domestic violence case.

Police declined to provide his name, saying the investigation was continuing, and have cordoned off his Gatineau home with crime-scene tape.

Brazeau was informed about his removal shortly after noon on Thursday. A one-line email, which went to every Conservative senator, simply read that he "has been removed from caucus, effective immediately." The email is signed by Sen. Marjory LeBreton, the government leader in the Senate.

In a written statement, LeBreton said only, "In light of the serious nature of the events reported today, Senator Brazeau has been removed from the Conservative Caucus. As this is a legal matter, I cannot comment further."

Brazeau, the youngest of Canada's 105 senators, has courted controversy since his appointment by Prime Minister Stephen Harper in 2008.

His own party has admonished him publicly for his poor attendance record and asked for an investigation into whether he misused more than \$20,000 in a housing allowance.

Brazeau made his case before the special senate committee conducting the probe on Dec. 12 in a closed-door session. Neither he nor the Senate will discuss the investigation, which has been widened to include the entire Senate, but Brazeau maintains he has done nothing wrong.

Brazeau, an Algonquin from the Kitigan Zibi First Nation in Quebec and former national chief of the Congress of Aboriginal Peoples, has also been criticized for his negative remarks about First Nations governance and the Idle No More movement.

In an interview in late 2012, Brazeau told Postmedia News, "I knew I was going to be a target from Day 1. I was appointed at the age of 34, a very young senator, the third youngest in Canadian history. That fact alone and the fact that perhaps that I'm also — and I hate to say this — perhaps the fact that I'm also aboriginal" (would make him a target.)

"People don't like the fact that we have aboriginal people in the Senate that have a pretty powerful voice or can have a pretty powerful voice at times. I've always known I was going to be the target. That's fine."

He also said at the time: "Everything negative that has been said about me since my appointment has never been proven. I still look forward to the day that, regardless of the allegations that swarm out there by different media sources or any other individuals or groups, that they actually provide the truth and the facts to back up their allegations."

Brazeau has also been criticized for Twitter outbursts in which he lashed out against a female journalist. He temporarily shut his Twitter account down.

Speaking about his own bad year in the 2012 interview, he said, "I've never hidden the fact I did go through some personal issues this year and my blood just boiled at one point. And I probably made my biggest political mistake since I've been involved in both aboriginal and mainstream politics," he has said, referring to his Twitter

outbursts. His account has been relatively clean since he rejoined the social media platform.

Brazeau could face a motion of suspension from the Senate if charged, but it wouldn't suspend his pay.

Members can be ejected from the Senate if convicted of an indictable offence and given no less than two years in jail.

Speaking generally about senators who might break the law, and not specifically to any case, Liberal House Leader Sen. James Cowan said neither he nor Conservative Senate leader LeBreton "have any tolerance for people who are breaching the rules. We're talking about the expenditure of public money and we have zero tolerance, either of us, for anybody screwing around with the rules. "

Ottawa Citizen and Postmedia News

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Out of patience and money: 9 aboriginal bands quit Northern Gateway review process

[The Canadian Press](#)

February 4, 2013 2:08 PM



A group of nine aboriginal bands from the B.C. coast and Haida Gwaii have withdrawn from the Northern Gateway review process. Above, native drummers demonstrate outside the review panel in Prince George in October. Photograph by: JONATHAN HAYWARD, THE CANADIAN PRESS

PRINCE RUPERT, B.C. — Coastal First Nations have left the federal review of the Northern Gateway pipeline plan, saying they've run out of money and patience.

Executive director Art Sterritt has told the panel the group representing nine aboriginal bands from the B.C. coast and Haida Gwaii has spent more than three times the amount of funding allotted by the Canadian Environmental Assessment Agency four years ago.

Sterritt said the approximately \$280,000 they had cannot compare to the \$250 million Enbridge (TSX:ENB) is spending on a team of lawyers.

"We simply have not been provided with the funding necessary to engage in this process meaningfully or effectively," Sterritt told the panel as hearings resumed in Prince Rupert on Monday.

"This is extremely distressing and disappointing to us, as we have a great deal at stake in these proceedings and in particular this panel."

Sterritt, whose group is opposed to the pipeline that would deliver crude from the Alberta oil sands to a tanker port in Kitimat, left open the possibility of returning to the joint review process in future.

But there is a funding disparity between those who oppose the project and the deep pockets of Enbridge, he said.

"It seems the only party that can afford this long and extended hearing process is Enbridge itself, and perhaps the Crown. The average citizen can't afford to be here, and certainly the Coastal First Nations can't afford it," Sterritt said.

The group had been scheduled for seven hours to question the Enbridge expert panel giving evidence under oath this week on marine spills and spill response.

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Cree youth walk for Idle No More gains more participants: Youngest participant is 11-year-old girl, Abby Masty

[CBC News](#)

Feb 4, 2013 12:21 PM CST



The group of walkers as they arrived in Chisasibi, Que., on Friday. (Facebook)

A group of Cree youth, between the ages of 11 and 21, is continuing its trek this morning from northern Quebec to Ottawa.

Six youths and one guide left the James Bay Cree community of Whapmagoostui on Jan. 16

on their walk, called 'The Journey of Nishiyuu', which means the Journey of the People in Cree.

They arrived in Chisasibi Friday, which is 250 kilometres from Whapmagoostui, and hope to reach Ottawa in mid-March. Their goal is to support the Idle No More movement and to raise awareness of their culture and the environment.

Matthew Mukash, a former Grand Chief of the Grand Council of Crees in Quebec, said what the young people are doing is not easy.

"There are a number of challenges — first is the elements. You have to face the elements in the wintertime. The cold and the storms and stuff like that. And also at night it's very cold. You have to make sure you don't get cold when you're sleeping," he said.

Mukash said it's also hard for members of the group to be away from their families for so long.

Still, their numbers have been growing steadily over the past two weeks. There were seven walkers at the start, and now there are 26, including an 11-year-old girl, Abby Masty, from Whapmagoostui.

Abby's mother, Rita Masty, said she is proud of her daughter.

"Of course I worry about her and about her safety and the cold nights there will be during that journey. But I have faith in my daughter that she will be well-taken of. I was so happy that one of the walkers will be a woman," she said.

Masty said her daughter had a dream that she would stay with the walkers all the way to Ottawa.

The journey has attracted international interest, with close to 23,000 people following it through a Facebook page. They will have walked close to 1,300 kilometres by the time they reach Ottawa.



A group of nine aboriginal bands from the B.C. coast and Haida Gwaii have withdrawn from the Northern Gateway review process. Above, native drummers demonstrate outside the review panel in Prince George in October.

Photograph by: JONATHAN HAYWARD, THE CANADIAN PRESS

Study gives insight into roots of Idle No More

[Leader-Post](#)

February 4, 2013

Jason Warick

U of S Prof. Bonita Beatty is studying aboriginal political involvement. Photograph by: Gord Waldner, The StarPhoenix, The StarPhoenix

Voting is a political act, but so is protesting, joining a social media group or sharing moose



meat with a neighbour, says the co-author of a new study on aboriginal political involvement.

The study can help explain the energy and motivation behind recent developments such as the Idle No More movement, said University of Saskatchewan native studies Prof. Bonita Beatty.

"We knew from this work that something was bubbling. We didn't know it would be called Idle No More, but we knew," Beatty said.

Beatty, U of S professors Loleen Berdahl and Greg Poelzer and the University of Winnipeg's Evelyn Peters surveyed more than 500 people and hosted focus groups in the northern half of the province beginning in 2010. The dialogue took place in Cree, Dene and English, as 85 per cent of residents are aboriginal.

The continued low voter turnout in federal and provincial elections was disappointing but not surprising, Beatty said. Less than half of respondents said they voted in the last federal election. Among those aged 18 to 29, turnout was self-reported at 18 per cent in the last provincial election and nine per cent in the last federal election.

Turnout among respondents was much higher - 69 per cent - in local band elections.

Beatty said northerners are engaged politically at the band level and in many other ways that don't always register in statistics. Nearly 80 per cent of respondents, for example, said they regularly share moose meat or fish with another household.

"That is unique. There are these other levels of engagement," she said. "It goes right to what politics should be - it should be about helping others, learning to live together."

More than 96 per cent rated as "very important" the need to protect and maintain traditional northern cultures and ways of life.

Partly because of the perceived threat to tradition, there is a growing interest in wider issues, even if it isn't yet reflected in voting rates or political party membership, she said. Facebook and other social media are connecting aboriginal youth and communities throughout the north. This informal aboriginal political culture, coupled with a growing sense of alienation and injustice, is giving energy to movements like Idle No More.

"When people's expectations are not met by the formal system - and if land, water and treaties are affected - it's going to come out somehow," she said.

Beatty said it's essential for political parties and governments to find ways to bring people out to vote, but there also needs to be a push in northern communities to become involved in the bigger campaigns.

"You have to work together and get in on the system that's making the decisions," she said.

The authors plan to take the study to La Ronge and Meadow Lake later this month to share with people from across the north.

There is also a plan to broadcast the study results throughout the north on the Missinipi Broadcasting Corporation radio station.

Lac La Ronge Chief Tammy Cook-Searson agrees there is a high level of local political activism. She described the long lines at polling stations for recent band elections, as well as the various elected councils and boards representing northern trappers, social services agencies and other bodies.

She agreed Facebook and other online resources are allowing individuals and groups to connect.

"Social media is changing things. People are getting educated about how things affect them."

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Attawapiskat Protesters Block Ice Road Leading To De Beers Diamond Mine

[Huffington Post](#)

February 5, 2013

The Canadian Press



De Beers Canada says a group of Attawapiskat residents is blockading the main winter road leading to the company's Victor diamond mine in northern Ontario. (Canadian Press photo)

De Beers Canada says a group of Attawapiskat residents is blockading the main winter road

leading to the company's Victor diamond mine in northern Ontario.

De Beers says the blockade began Monday evening on a road the company uses to move in supplies like fuel, machine parts and equipment that would be too heavy to fly in.

Spokesman Tom Ormsby says the blockade has not yet impacted the mine's operations, but has forced De Beers to cease operations on the road.

The mine -- 90 kilometres west of Attawapiskat -- has a large aboriginal workforce, but First Nation has complained that its share of the bounty from the mine isn't getting back to the community.

A federal review of the relationship between the Victor mine and Attawapiskat showed that government support for training and capacity did not start soon enough to deal with the huge lack of skills in the First Nation.

Ormsby says De Beers has an annual resupply program to deliver non-perishable items such as oil and new equipment to the mine over the ice road.

"Our program is usually about 30 days in duration, while the road itself is usually open several weeks longer than our needs," Ormsby said Tuesday in an email.

"Supplying the mine is a year-round exercise by air, but we save the bulk of the program for the winter road because it is the most cost-effective way to deliver these larger and predictable items," he said.

A representative of the Attawapiskat community could not be reached for comment.

(The Canadian Press, APTN)

How Does Native Funding Work?

[CBC News](#)

February 6, 2013



The recent Idle No More protests, as well as Attawapiskat chief Theresa Spence's 45-day hunger strike, have raised awareness of native issues.

One of the most complicated and misunderstood issues is the subject of native funding, which stems largely from the relationship between governments and aboriginal peoples. The history of that relationship has determined how various aspects of what we are calling aboriginal finance work — or don't work.

In an attempt to clarify the most important and most misunderstood issues, and to try to challenge some myths, CBC News spoke to experts in the field of aboriginal finance.

One is Daniel Wilson, a former senior director of strategic policy and planning for the Assembly of First Nations and before that, a Canadian diplomat. He describes himself as having Mi'kmaq, Acadian and Irish heritage.

Another is Harold Calla, chairman of the First Nations Financial Management Board, which he helped establish in 2006 to provide First Nations with the tools of modern

fiscal management. A certified general accountant and a certified aboriginal financial manager, Calla is a member of the Squamish First Nation in North Vancouver.

What revenue sources do First Nations have?

The biggest revenue source is transfers from the federal government, but First Nations are increasingly generating what's called "own-source revenue."

The communities also get revenue from land claims settlements and successful lawsuits, selling treaty land and a small amount from other levels of government.

For the 50,000 Inuit in the Canadian north, federal funding is mostly determined by the four comprehensive land claims agreements, that, combined, cover 40 per cent of the country's land mass. Programs and services generally have been provided through territorial or provincial governments.

The January 2013 ruling by the Federal Court that Métis and non-status Indians fall under federal jurisdiction may have funding implications. Before that ruling, Métis National Council President Clément Chartier had said, "the federal government continues to say we are a provincial responsibility."

Why does the federal government fund First Nations?

In 1867, the British North America Act made "Indians and lands reserved for the Indians" an exclusive federal jurisdiction, making the federal government responsible for providing programs and services that most communities in Canada receive from provincial and municipal levels of government. These include education, health and social services, roads, housing, water and waste management.

First Nations also lost land and resources through treaties and land claims settlements, which created government obligations to provide aid and services in return.

Providing a comparable range and level of service to First Nations and Inuit is a stated government goal, but according to Canada's auditor general, "Services available on reserves are often not comparable to those provided off reserves by provinces and municipalities," and conditions have remained poor.

In the 2011 report Programs for First Nations on Reserves, the auditor general also observed, "It is not always evident whether the federal government is committed to providing services on reserves of the same range and quality as those provided to other communities across Canada."

The federal government established each First Nation band as an autonomous entity and, therefore, provides separate program funding to each one. With about 630 First Nations – 60 per cent of which have fewer than 500 residents – economies of scale mean that delivering these programs likely will be expensive, compared to when similar services are provided at the municipal and provincial level.

How does the government fund First Nations?

The primary method to fund services is through what's called "contribution agreements." The agreements are renewed annually, although not always on time. As stated in the auditor general's report, that means "First Nations must often reallocate funds from elsewhere to continue meeting community service requirements."

That report also says that "while the agreements state the services or actions to be provided, they do not always focus on service standards or results to be achieved."

Both Calla and Wilson say there is a lack of transparency in how the Ministry of Aboriginal Affairs and Northern Development (AANDC) sets the amount of money that goes to each First Nation.

Calla says there's "no linking of funding levels to national standards for services such as in the equalization program for provinces." Furthermore, he says the growth rate of federal funding to First Nations has not been keeping pace with the growth rate in transfers to the provinces.

Calla acknowledges that AANDC is in a difficult position because "they know the demand, they know what's required and they have to work with very limited resources and policies and conditions that they wish they didn't have."

A report for AANDC concluded that the existing funding arrangements are not appropriate. "There is a lack of clarity about the overall objectives of the funding arrangements, a lack of coherence among programs and funding authorities that make up the arrangements, and no clear leadership at [AANDC] Headquarters," the Institute on Governance, an Ottawa think tank, says in its 2008 report.

Has funding kept pace with population growth?

The aboriginal population appears to be increasing at a significantly faster rate than the total population. Between Statistics Canada's 1996 and 2006 census, the total aboriginal population increased 45 per cent (29 per cent for First Nations), compared to an eight per cent increase in the non-aboriginal population.

Documents for the last three budgets all contain this phrase, that the additional spending is "to meet increased demand for ongoing Indian and Inuit programs which reflects a 2.0% allowance for inflation and population growth."

That two per cent spending cap on AANDC program funding has been in place since 1996. However, the Parliamentary Budget Office looked at the actual spending and reported in 2009 that it increased by an average of 2.75 per cent annually between 1996-2004. That's still below the four per cent annual increase in the aboriginal population, and then there's inflation.

Wilson has been researching education spending and told CBC News that in conversations with him, AANDC officials "are frank in explaining that there's no system, no standard for calculation, it's not done on a per-capita basis, it's not done on 'what do you have that you currently need to improve?' It's done on a band-by-band basis, seemingly at the whim of administrators in aboriginal affairs."

According to an AANDC internal evaluation, "there is no evidence that funding allocations from regional offices to First Nations were based on any rationale that takes the current structure of educational responsibilities into account."

When it comes to keeping pace with need, the auditor general's 2011 report concluded, "The education gap between First Nations living on reserves and the general Canadian population has widened, the shortage of adequate housing on reserves has increased, comparability of child and family services is not ensured."

How do First Nations' earn own-source revenue?

In 1876, the Indian Act gave the government control of Indian economic and resource development and land use. They became what Calla calls "wards of Canada," which didn't allow them to engage in economic development. Only in the last few decades has there been any significant change in that arrangement.

Now that they are able to do so, many First Nations are generating revenue, from a wide variety of sources. Here are some examples:

- Squamish First Nation in North Vancouver and Westbank First Nation in Kelowna, B.C., have developed major shopping centres.
- Osoyoos First Nation in B.C. has a winery, NK'Mip Cellars.
- Vuntut Gwitchin First Nation in the Yukon owns the Vuntut Development Corp., which co-owns Air North airline and other interests.
- Tlicho First Nations north of Yellowknife provides support services to the diamond mining industry, and also receives royalties from the mining companies.
- Whitecap Dakota First Nation in Saskatchewan has the Dakota Dunes Casino and the Chippewas of Rama First Nation in Ontario have Casino Rama. There are at least 15 other First Nation-owned casinos in Canada.
- Lac La Ronge First Nation's Northern Lights Foods sells wild rice and mushrooms internationally.
- Attawapiskat First Nation in Ontario receives funds, as well as training and jobs, from De Beers' diamond mine on their traditional land, the result of an impact benefit agreement the two sides reached in 2005.
- Waswanipi Cree First Nation in Quebec has a silvaculture and timber harvest joint venture with Domtar.
- Membertou First Nation in Nova Scotia has a hotel and convention centre.

Calla estimates that his band, Squamish First Nation, puts \$20 million to 24 million per year into subsidizing its own programs and services. He estimates "the Squamish Nation economy, on its reserve land, contributes \$1 billion a year to the North Shore economy," through the shopping centre, an office complex and other ventures.

Do First Nations collect taxes?

In 1988, amendments to the Indian Act empowered First Nations with their own tax authority and today, according to Wilson, about one-sixth of bands collect taxes. For those bands, Calla estimates that one-tenth to one-third of their total revenue comes from property taxes and, less frequently, sales taxes but notes that those revenues come with service responsibilities.

"There's a big struggle in securing tax room for First Nations so that they can start to function as governments, and fundamentally it comes down to a difference of opinion of what self-government should be in this country," says Calla.

Sometimes it leads to what he calls "ludicrous situations."

He explained that his Squamish band wants to build market housing on their land in North Vancouver and then be able to assess a property transfer tax. But that requires the agreement of the federal and B.C. finance departments, who said no, "because it's not consistent with the treaty mandates for negotiation," Calla said. The problem, according to Calla, is that "the bureaucracy thinks we should only be able to collect taxes off Indians."

He recounts one meeting in which he asked government representatives, "You mean I'm the Indian at the table saying I want to assess this tax, including on our own people, and you're telling me that I can't do it?"

When they responded affirmatively, Calla said he asked them, "So you're prepared to have me advertise that we'll put 14,000 housing units in greater Vancouver into the general market and say to the public that 'you don't have to pay property transfer tax if you come here'?"

"They looked at me and they said, 'I guess so.'"

For Calla, it all adds up to the need for a new fiscal financing relationship, in which First Nations are viewed as "governments, not recipients."

What happens when outside corporations develop resources on aboriginal land?

Often there's a lawsuit, and 90 per cent of the time, the Aboriginal group wins, according to Bill Gallagher, a lawyer who worked for the federal government as a treaty land entitlement officer on the Prairies. He later worked for Inco in the protracted negotiations over the Voisey's Bay project in Labrador.

Gallagher says aboriginal groups have recorded victories in 175 lawsuits since the mid-'80s – including five victories while Attawapiskat chief Theresa Spence was on her hunger strike. Most of the victories concern development on traditional rather than reserve lands.

"The vast majority [of legal wins] involve the extension of native empowerment off reserve onto traditional native lands," which other levels of government claim is theirs, says Gallagher, author of the 2012 book *Resource Rulers: Fortune and Folly on Canada's Road to Resources*.

"That's where the [aboriginal] winning streak has really played out."

The basis for those victories, and for the emergence of some bands as "resource rulers," follows from the Canadian constitution and Supreme Court of Canada decisions setting out a "duty to consult and accommodate" aboriginal peoples about development on their traditional lands. Gallagher considers the legal winning streak a de facto constitutional amendment.

Often after the legal victories come revenue-sharing agreements with governments and partnerships with resource developers.

Two weeks ago, the federal government announced it was appealing a lower court ruling in December that ordered them to consult with First Nations before selling the Kapyong Barracks, a former Canadian Forces base in a residential area of Winnipeg.

A week earlier, the Mikisew Cree and the Frog Lake First Nations, from Alberta, said they plan to use the duty to consult in a court challenge to provisions of Bill C-45, the omnibus federal budget bill that's now law.

Gallagher tells CBC News that "it's in everybody's interests to have the feds, the provinces and First Nations work out a comprehensive arrangement that can get certainty for the Canadian resources sector."

Calla estimates that \$500 billion in resource and energy initiatives in Canada involve land "in the hands of First Nations."